REMARKS

Claims 1-39 are currently pending of which claims 9-28 have been withdrawn as being directed to non-elected invention. By this Amendment, claims 1 and 34 are amended. Claims 1, 29, 34, and 36 are independent. Applicants respectfully request reconsideration of the rejected claims in light of the above amendments and following remarks.

SCOPE OF CLAIMS NOT NARROWED

Claims 1 and 34 have been amended merely to address informal issues and to enhance clarity. It is intended that the scope of the claims remain substantially the same. Applicants respectfully submit that upon careful review one would conclude that the amendments made to claims do not add any new matter to the application and they are not narrowing, and are not made for a reason relating to patentability. Accordingly, it is submitted that these amendments do not give rise to estoppel and, in future analysis, claims 1 and 34 are entitled to their full range of equivalents.

OBJECTION TO THE CLAIMS

Claims 1-8 and 37-39 are objected to for minor informalities. *See final Office Action, page 2, item 2.* Claim 1 has been amended to address this objection. Accordingly, Applicants respectfully request that the objection to claims 1-8 and 37-39 be withdrawn.

REJECTION UNDER § 112, FIRST PARAGRAPH

Claims 1-8 and 37-39 stand rejected under 35 U.S.C. § 112, 1st paragraph, for allegedly containing subject matter not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed invention at the time of filing. Applicants respectfully traverse this rejection.

Applicants point out that MPEP § 2163 sets forth guidelines for the examination of patent applications under the "Written Description" requirement of 35 U.S.C. § 112, first paragraph.

Specifically, the second paragraph of MPEP § 2163.I.B indicates that the requirement for the specification to support added claim limitations is not an in *haec verba* requirement (i.e., the specification is not required to use the exact language in the claims). Instead, this section of the MPEP indicates that the specification may support added claim limitations through express, implicit, or inherent disclosure.

Furthermore, MPEP § 2163.II.A lists the methodology for the Examiner to follow in order to determine the adequacy of the Written Description. This methodology includes the following steps:

1. For each claim, determine what the claim as a whole covers;
2. Review the entire application to understand how Applicants provide support for the claimed invention including each element and/or step; and
3. Determine whether there is sufficient Written Description to inform a skilled artisan that Applicants were in possession of the claimed invention as a whole at the time the application was filed.

Applicants respectfully submit that the Examiner did not follow this methodology in rejecting the claims. Instead, it appears that the Examiner concluded that a particular claim element, i.e., "without developer involvement," as recited in claim 1 is not enabled because the exact language is not found in the specification. Applicants respectfully submit that such analysis is not permitted according to the aforementioned methodology required by the MPEP.

Furthermore, Applicants submit that the claimed without developer involvement is clearly described in the specification. For example, page 2, lines 1-3 and 11-14 of paragraph [05] recites, "There is real need in the industry for methods and apparatuses that ***remove the software programmer*** from writing code (or machine instructions) using an underlying low-level software language in order to generate an output that is computer-executable. . . . Thus, enabling the ***user*** to design an application at a high level while generating computer-executable instructions as an output that is scalable (i.e., ***capable of being executed on different computer platforms at run time***) would be very beneficial to advancing the art." *Emphasis added.* It is

clear to one of ordinary skill in the art that such user can design an application at a high level ***without*** the involvement of a developer or programmer.

Accordingly, Applicants respectfully submit that those of ordinary skill in the art would immediately recognize that the claimed "without developer involvement" is described in the specification so as to convey that the inventor had possession of the claimed invention at the time of filing.

The Examiner further alleges that claims 37-39 have no support in the specification. Applicants earnestly request the Examiner to review page 17, paragraphs [44]-[46] of the instant specification. For example, lines 7-9 of paragraph [44] clearly recites, "the user may ***bypass*** error detection at a high level and directly compile a high-level code emission." Thus, it is respectfully submitted that the specification supports claim 37. Similarly, support for the "user-selected customization" as recited in claims 38 and 39 are also found in paragraphs [45] and [46]. Applicants again wish to remind the Examiner that there is no requirement that the specification use the exact language of the claims.

Therefore, for at least these reasons, Applicants respectfully request reconsideration and withdrawal of this rejection.

35 U.S.C. § 112, 2ND PARAGRAPH REJECTION

Claims 34-35 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claim 34 has been amended to address this issue. Accordingly, it is respectfully requested to withdraw this rejection.

CLAIMS REJECTIONS – 35 U.S.C. § 101

Claims 34-35 stand rejected under 35 U.S.C. § 101, as allegedly being directed to non-statutory subject matter. Although Applicants do not necessarily agree with the Examiner that claims 34-45 are non-statutory, claim 34 has been amended as suggested by the Examiner merely to expedite prosecution.

35 U.S.C. § 103 REJECTION – Jabri, Hollingsworth

Claims 1-8 and 29-36 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Jabri (U.S. Patent Application Publication 2002/0066074 A1)[hereinafter "Jabri"] in view of Hollingsworth et al. (U.S. Patent No. 5,444,836)[hereinafter "Hollingsworth"]. Applicants respectfully traverse.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142.* One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j).* Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, it is respectfully submitted that neither Jabri nor Hollingsworth, either alone or in combination, teaches or suggests each and every claim elements of independent claims 1, 29, 34, and 36.

For example, claim 1 recites, inter alia, That is, as best understood, there is simply nothing in Jabri that remotely suggests a method for designing a process, including, *inter alia*, transforming the high-level code emission into computer-executable instructions; through

> (b) generating a high-level code emission for the process ***with an association between the model for the process and an user-selected supported, inserted graphical shape-construct corresponding to a visual image***; the process being specified by a the visual image on the visual display surface; and
>
> (c) transforming the high-level code emission into computer-executable instructions; through,
>
> ***determining a first contextual evaluation whether the supported, inserted graphical shape-construct of step (b) is compatible with any previously selected supported, selected graphical shape-construct, and only after having said compatibility is determined,***
>
> ***transforming the association between the model and the high-level code emission for the process is transformed into computer-executable instructions.***

That is to say that, by a first contextual evaluation of the user-selected supported, inserted graphical shape-construct (hereinafter "construct" or "constructs"), the system determines from a high-level code emission whether the construct is compatible with any previously selected constructs already upon the visual display surface. Next, and only after a successful compatibility between the constructs is determined will association between the constructs be transformed into computer-executable instructions.

Instead, and as Jabri is understood, it appears that the system of Jabri generally employs a modeling tool wherein the modeling tool is used to capture application logic at an abstract design level and then deploy the captured application logic into an execution platform. One example of the system in Jabri uses a universal modeling language (UML) for visually capturing object definitions. See, for example, Jabri at paragraphs 26 and 29. However, Jabri fails to anticipate the claimed invention for at least the absence of the visual display surface and the attendant user selected, supported inserted graphical shape-constructs corresponding to the visual images on the visual display surface.

Indeed, the Examiner acknowledges that Jabri fails to teach or suggest, "transforming the high-level code emission into computer-executable instructions; through, ***determining a first contextual evaluation whether the supported, inserted graphical shape-construct of step (b) is compatible with any previously selected supported, selected graphical shape-construct, and only after having said compatibility is determined***." Thus, the Examiner imports Hollingsworth as disclosing this feature. Particularly, the Examiner relies on col. 1, lines 52-62; col. 2, lines 56-61; and col. 3, lines 30-34 as disclosing the above-identified claim feature. However, Applicants respectfully submit that neither the cited portions nor any other portions of Hollingsworth teach or suggest the above-identified claim feature.

Hollingsworth merely discloses a conventional method and system for placing user defined rules of graphical objects in a computer aided drafting (CAD) application. Particularly, Hollingsworth discloses rules for precise placement and overplotting of graphical objects that may be defined by a user with significant flexibility. For example, the user defined rules may be

applied by a placement subsystem to automate the proper placement of graphical objects according to the specific rules of the particular user. (*See abstract*). Hollingsworth uses a step of performing a query on a database subsystem to retrieve information on all graphical objects to be placed according to the structure being processed. Then, for each graphical object for which information is retrieved from the database subsystem, Hollingsworth's method applies placement rules to determine placement, orientation, labelling, and overplotting of each graphical object. Hollingsworth further discloses a rule specification file wherein entries in the file specify the query element and associated placement rules.

The above-described steps of precise placement and overplotting of graphical objects of Hollingsworth does not teach or suggest transforming a high-level code emission into computer-executable instructions by "***determining a first contextual evaluation whether the supported, inserted graphical shape-construct of step (b) is compatible with any previously selected supported, selected graphical shape-construct, and only after having said compatibility is determined***" as recited in claim 1. Although Hollingsworth discloses "high level keyword" statement, such "high level keyword" statement is not a high-level code emission which has been transformed into computer executable instructions by "determining a first contextual evaluation whether the supported, inserted graphical shape-construct of step (b) (as recited in claim 1) is compatible with any previously selected supported, selected graphical shape-construct, and only after having said compatibility is determined." The "high level" keyword statement of Hollingsworth is simply a part of the rule specification file whose value contains additional keyword statements.

For at least these reasons, Applicants submit that the combined invention of Jabri and Hollingsworth fails to teach or suggest the claimed combination of elements recited by amended claim 1. And similarly found in claims 29, 34 and 36. As such, claims 1, 29, 34 and 36 are clearly patentable. Because claims 2-8, 30-33, 35 and 37-39 depend from claim 1, 29, 34 and 36, claims 2-8, 30-33, 35 and 37-39 are at least patentable by virtue of their dependency as well as for their additional recitations. Accordingly, the immediate withdrawal of the prior art rejections of claims 1-8 and 29-39 under section 103 is respectfully requested.

Conclusion

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Ali M. Imam Reg. No. 58,755 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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